

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

WP(C).No. 32938 of 2005(U)

PETITIONER:

T.A. ITTIMANI, S/O. T.I. ABRAHAM,
AGED 58 YEARS, EXECUTIVE ENGINEER (RETD.),
M.V.I.P. DIVISION PROJECT, THODUPUZHA
(RESIDING AT THOLATH HOUSE NO.29/433, KUNNATH LANE
THRISSUR-1. (Died)

M.I.MOLY, W/O LATE. T.A. ITTIMANI, AGED 59,
RESIDING AT THOLATH HOUSE,
KUNNATH LANE, THRISSUR-1
(Impleaded as legal representative of the deceased as per order
dated 16.11.2007 in I.A.13584/2007)

BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA

RESPONDENTS:

1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
IRRIGATION DEPARTMENT, SECRETARIAT, TRIVANDRUM.
2. THE CHIEF ENGINEER (IRRIGATION),
PROJECT II, TRIVANDRUM.
3. THE ACCOUNTANT GENERAL (A & E), KERALA,
TRIVANDRUM.
4. THE SUB TREASURY OFFICER, THRISSUR.

BY GOVERNMENT PLEADER SRI. NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 14/12/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

- EXT.P1- TRUE COPY OF THE ORDER NO.FP7-3185/2001 OF THE CHIEF ENGINEER
- EXT.P2- TRUE COPY OF THE ORDER NO.P-06/Pen.A/1139/0X/01-02 OF THE ACCOUNTANT GENERAL, KERALA
- EXT.P3- TRUE COPY OF THE ORDER NO.P-06/REVN/4/0X/04-05 OF -DO-
- EXT.P4- TRUE COPY OF the REPRESENTATION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT
- EXT.P5- TRUE COPY OF THE ORDER NO.FP7-3185/2001 OF THE CHIEF ENGINEER.
- EXT.P6- TRUE COPY OF THE G.O.(P) NO.185/2002/Fin. OF THE GOVERNMENT
- EXT.P7- TRUE COPY OF THE DECISION REPORTED IN 2005 (1) KLT 46.
- EXT.P8- TRUE COPY OF THE GOVERNMENT LETTER NO.18436/A1/02/WRD OF THE GOVERNMENT

(TRUE COPY)

P.A TO JUDGE

V.GIRI, J

W.P.(C).32938/2005

Dated this the 14th day of December, 2007

JUDGMENT

First petitioner retired from service on 31.3.2002. He expired on 30.5.2007. Second petitioner is the widow who was impleaded as per order dated 16.11.2007. Writ petition was filed seeking a direction for disbursal of full pension and DCRG.

2. Counsel for the petitioner contends that no amount was fixed as against the first petitioner within three years from the date of retirement and hence DCRG is to be disbursed. He relies on the judgment of this Court in **Sugathan v. Kochin Devaswam Board (2005 (1) KLT 46)** and further relies on the decision reported in **Aravindaksha Panicker N. v. The Accountant General (A & E) Kerala and Others (2007 (4) KHC 764)**, and submits that even if departmental proceedings are pending, DCRG cannot be withheld beyond the period of three years. This principle is applicable in the case of the first petitioner in as much as that vigilance

enquiry was pending against the first petitioner at the time of his death, though it was instituted only after his retirement.

3. In the circumstances, where no liability was fixed, within three years from the retirement of the first petitioner, DCRG is liable to be disbursed. Accordingly, there will be a direction to the first respondent to see that the amount due to the first petitioner as DCRG is disbursed within a period of one month from the date of receipt of a copy of this judgment. So far as the pension is concerned, since the first petitioner has expired, the entire pension due and admissible under his account is liable to be disbursed to his legal heirs. Same shall also be done within one month, along with the commuted value of pension as is due. Petitioner's claim for interest is left open to be agitated in other appropriate proceedings.

**V.GIRI,
Judge**

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mrCS